



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 533

IN THE MATTER OF WILLIAM P. PEARSON

DISPOSITION AGREEMENT

The State Ethics Commission ("Commission") and William P. Pearson ("Pearson") enter into this Disposition Agreement ("Agreement") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On June 22, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Pearson. The Commission has concluded its inquiry and, on July 12, 1994, by a majority vote, found reasonable cause to believe that Pearson violated G.L. c. 268A.

The Commission and Pearson now agree to the following findings of fact and conclusions of law:

1. Pearson was, during the time relevant, a member of the Byfield Water Commission ("BWC"). As such, he was a municipal employee as that term is defined in G.L. c. 268A, §1(g). Pearson has served on the BWC since 1990.
2. The BWC is an elected, five member board which oversees the operation of the Byfield Water District ("District"). The BWC meets once a month to review and approve bills and to authorize significant expenditures.
3. The Byfield Water District is an independent entity formed in 1947, pursuant to a special act of the Legislature, to provide water to a specified geographical area in the town of Newbury. The District serves approximately 600 customers^{1/} and has an annual budget of about \$225,000. (The budget is set at the District Annual Meeting. The commissioners do not have the authority to exceed that budget. All major projects are subject to approval at special or annual District meetings.) The District superintendent oversees the day-to-day operation of the District Water Department.
4. Pearson has private interests in three corporations: Pearson Landscaping, Inc.; Pearson Hardware, Inc.; and Highfields Realty, Inc. All three businesses are located at 2 Fruit Street, Byfield. Pearson jointly owns all three businesses with his brother (each owning 50%). Pearson receives a salary from Pearson Landscaping of approximately \$15,000 to \$20,000 per year. He does not receive a salary from Pearson Hardware or Highfields Realty. Pearson shares in any profits from each of the three corporations.
5. The District purchases miscellaneous hardware items from Pearson Hardware. The District has, at least until recently, used Pearson Landscaping for all of its emergency waterline repairs, and for the installation of major watermain projects. Finally, beginning on or about March 1, 1991, the District has rented its office space from Highfields Realty, Inc., paying \$180 a month.^{2/}
6. Between January 1, 1991, and December 31, 1992, Pearson, as a BWC commissioner, signed warrants approving a total of \$30,530.30 in payments for bills from Pearson Landscaping, Pearson Hardware and Highfields Realty.

7. On January 8, 1992, the BWC discussed a Wayside Avenue homeowner's request that water be run to his home. As a result of that discussion, the BWC agreed that it would be best to install the water main the full 2,000 feet length of the street at a cost of \$20,000. The BWC further agreed that the homeowner should prepare a ten taxpayer petition requesting a District special meeting to consider this project. On Pearson's motion, the BWC voted to schedule a special district meeting to vote on the project once the required petition was received. In or about spring of 1992, the BWC placed an article in the warrant before the District annual meeting which would authorize approximately \$6,000 for the installation of a watermain on Hickory Lane. In each of the foregoing cases, Pearson involved himself in the discussion concerning, and the ultimate decision to take, the described action. In each case, Pearson acted in favor of the action. At the time Pearson so acted, he knew it was reasonably likely that Pearson Landscaping would do the watermain work, or submit a bid for the work.

8. Pearson Landscaping did do the watermain work on the Wayside Avenue and the Hickory Lane projects, receiving a total of approximately \$14,000 for the two projects.

9. Part of Pearson's Pearson Landscaping salary in 1992 was derived from the District's payments to Pearson Landscaping for the work on the Wayside Avenue and Hickory Lane projects.

10. Pearson acted as Pearson Landscaping's agent regarding both the Wayside Avenue and Hickory Lane projects by, as a Pearson Landscaping employee, discussing various issues regarding the projects with the District superintendent.

11. Except as otherwise permitted in that section,^{3/} G.L. c 268A, §19 in relevant part prohibits a municipal employee from participating as such in a particular matter in which to his knowledge he or a business organization by which he is employed has a financial interest.

12. The various decisions and determinations by the BWC to approve bills from Pearson Hardware, Pearson Landscaping and Highfields Realty were all particular matters.^{4/} The decisions by the BWC in January and Spring 1992 to place the Wayside Avenue and Hickory Lane projects before the District Meetings were also particular matters.

13. Because Pearson was substantially and personally involved in making the foregoing decisions, he participated^{5/} in those particular matters.

14. Because each such decision involved a company 50% owned by Pearson, Pearson had a financial interest in those particular matters. Pearson was, of course, aware of those financial interests at the time he so participated.

15. Therefore, by participating in the purchasing and payment decisions as described above, Pearson repeatedly participated in particular matters as a BWC member in which to his knowledge he had a financial interest, thereby violating §19.

16. Section 17 prohibits a municipal employee from receiving compensation from or acting as agent for anyone other than his municipality in relation to a particular matter in which the municipality has a direct and substantial interest.

17. The District had a direct and substantial interest in each of the large scale watermain projects (Wayside Avenue in Hickory Lane) described above.

18. As already discussed above, the decisions by the BWC to place the Wayside Avenue and Hickory Lane watermain projects before the District meetings were particular matters.

19. Pearson acted in relation to those particular matters by discussing with the District superintendent the work in progress.

20. Pearson acted as Pearson Landscaping's agent in doing so. Part of his compensation for 1992, as described above, was derived from this work.

21. Therefore, Pearson violated §17 by receiving compensation from Pearson Landscaping and acting as Pearson Landscaping's agent in relation to particular matters in which the District had a direct and substantial interest, all as described above.

In view of the foregoing violations of G.L. c. 268A by Pearson, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Pearson:

(1) that Pearson pay to the Commission the sum of one thousand dollars (\$1,000) as a civil penalty for the violations of G.L. c. 268A, §19;

(2) that Pearson pay to the Commission the sum of one thousand dollars (\$1,000) as a civil penalty for the violations of G.L. c. 268A, §17;

(3) that Pearson disgorge the economic benefit he received by violating G.L. c. 268A, §' 17 and 19, which was \$1,700^{6/}; and

(4) that Pearson waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: August 17, 1995

^{1/} All but seven or eight of these are located in Newbury.

^{2/} Evelyn Noyes, chairperson of the BWC and a realtor, observed that the only other space available was for \$525 per month. She said the Highfields Realty space was the best deal.

^{3/} None of the exceptions applies here.

^{4/} "Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

^{5/} "Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).

^{6/} This represents an approximation of Pearson's share of profits from the \$30,530.30 in bills he approved, and his salary attributable to the Wayside Avenue and Hickory Lane projects.